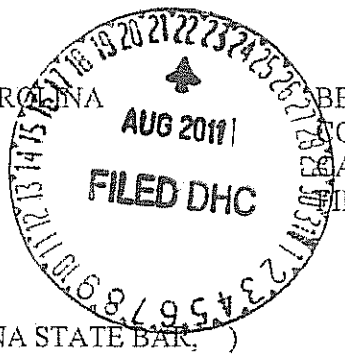

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR
FILE NUMBER: 11 DHC 13

THE NORTH CAROLINA STATE BAR,	)	
	)	
PLAINTIFF.	)	
	)	
VS.	)	ANSWER
	)	
BENJAMIN S. SMALL,	)	
	)	
DEFENDANT.	)	

NOW COMES the Defendant, Benjamin S. Small, in response to Plaintiff's Complaint, and alleges and says:

1. Admitted, upon information and belief.
2. Admitted, upon information and belief.
3. Admitted, upon information and belief.
4. Admitted, upon information and belief.
5. The allegations contained in Paragraph #5 of the Complaint are denied. As documented previously, in greater detail, James Neal Halley, III, was charged with Child Abuse Inflicting Serious Physical Injury, a Class E felony. The charge was amended, in open court, on the record, to the Class C felony, immediately and only after Mr. Halley rejected the State's offer to "plead guilty as charged." Mr. Halley was added on to the grand jury calendar and indicted by way of a superseding indictment by the State at the first available grand jury session following the amended indictment in open court. In addition to being eligible for mandatory, active sentencing as a Class C, Level I (having no prior criminal record) Defendant, Mr. Halley was indicted a second time with two (2) aggravating factors so that he could be sentenced to additional active time in the aggravated range of structured sentencing.
6. The allegations contained in Paragraph #6 are denied. As documented previously, in greater detail, Mr. Halley requested a speedy trial, in writing, on two (2) separate occasions, the second request coming in June of 2008. The Motion was filed in September 2008. Mr. Halley had no possibility of making a $20,000 bond, and even if he could, the bondsman required three (3) local sureties to guarantee Mr. Halley's appearance, due to the fact that Mr. Halley had an out – of – state address. Due to the number of letters that Mr. Halley wrote about his concerns for the case, the concerns raised by Mr. Halley at attorney – client conferences, and the fact that his case had not been calendared for court in one year, there was no question about the anxiety that Mr.

Halley was experiencing about pre – trial and post – trial incarceration, paying bills, and getting on with his life. The fact that the delay in trial was being used by the State to burden Mr. Halley with additional, unrelated investigations of criminal behavior, there is no question about the prejudice suffered by Mr. Halley by the willful delay by the State in prosecuting his case in order to forum shop for the preferred judge to preside over the case.

7. The allegations contained in Paragraph #7 of the Complaint are denied. As documented previously, in greater detail, the State changed the date of trial a total of five (5) times over the course of six (6) months, and every change, except the last one, took place verbally with the prosecutor. In a courthouse mailroom with hundreds of ½ inch mail slots for attorneys, four (4) of whom are named "Ben," prosecutors, guardians *ad litem*, law enforcement, sentencing services, judges, administrative assistants, bondsmen, social services, magistrates, etc., documents are routinely misplaced and misappropriated to the wrong and unintended recipient. The prosecutor did not deliver the "memo" to this attorney, which is why she can only report to the court that a memo was created. However, the prosecutor confirmed to this attorney, after the memo was allegedly created and delivered, that the trial date for Mr. Halley was January 12, 2009. The prosecutor never acknowledged to this attorney, before the trial date for Mr. Halley became an issue, that there was a memo or a trial date other than the one we had discussed.
8. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #8 are denied. As defined by the N.C. Supreme Court, the purpose of secured leave is to enjoy time away from the practice of law, not to attend continuing legal education.
9. The allegations contained in Paragraph #9 of the Complaint are denied. As documented previously, in greater detail, the purpose of secured leave, as defined by the N.C. Supreme Court, is to enjoy time away from the practice of law, not to attend continuing legal education, so the requested filing by the State is moot as it applies to this argument.
10. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #10 are denied.
11. The allegations contained in Paragraph #11 are denied. As documented previously, in greater detail, the State violated Mr. Halley's State of North Carolina and United States Constitutional rights, North Carolina General Statutes, and the North Carolina Rules of Professional Conduct, as admitted by the State at the December 18, 2008 Hearing.
12. The allegations contained in Paragraph #12 are denied.
13. Admitted, upon information and belief. The request by this prosecutor made of Judge W. Erwin Spainhour to hear this Motion, and her subterfuge during the week of December 15, 2008, are just one example of the State of North Carolina and United States Constitutional abuses of calendaring discretion employed on a daily basis by this office and its employees.
14. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #14 are denied.
15. Admitted, upon information and belief.
16. Admitted, upon information and belief.
17. The allegations contained in Paragraph #17 are denied. As detailed previously, in greater detail, Mr. Hatley's daughters, Gail Ervin and Sheila Furr, lied to this attorney before the said hearing and assumed responsibility for Mr. Hatley's transportation arrangements to

the hearing. Because Mr. Hatley was intentionally excluded from the hearing, it could not be contested. Gail Ervin and Sheila Furr both testified under oath that the only reason for prosecuting this action and requesting appointment as general guardians was to prevent Mr. Hatley from having any contact with his female friend, Ms. Lois Huneycutt, a woman they described as bossy, confrontational, and manipulative.

18. The allegations contained in Paragraph #18 are emphatically denied. Any preliminary investigation with Indigent Defense Services (IDS) and the court file would reveal two (2) things. First, no such fee application was ever received or approved, because the Clerk of Superior Court, Mr. M.G. "Gene" Morris, made a finding of fact, at the hearing, that Mr. Hatley was not indigent, ordering the Petitioners, Gail Ervin and Sheila Furr, to pay this attorney's expenses at the rate of $150.00 per hour, this attorney's then hourly rate. This explains the $250.00 payment ordered, at the hearing, by Mr. Morris, paid by Gail Ervin and Sheila Furr, not the State of North Carolina, without question. Second, the North Carolina General Assembly, in conjunction with Indigent Defense Services and the Administrative Office of the Courts (AOC), did not increase the hourly rate, from $65.00 to $75.00 per hour, for court – appointed attorneys until February 1, 2008, fifteen months after the hearing, so payment at $75.00 per hour for indigent – related services was not a part of the court vocabulary before then. Cabarrus County Chief District Court Judge William G. Hamby, Jr. has a standing contract with Malcolm Hunter, North Carolina Public Defender, for a published schedule of fees for each offense adjudicated in Cabarrus County. This "flat fee" schedule, in existence since the 1990s, included a "flat fee" of $150.00 for all incompetency cases paid by AOC and IDS prior to February 1, 2008, assuming that Respondents were found to be indigent and Petitioners were not ordered to bear the costs of incompetency cases.
19. Admitted, upon information and belief.
20. The allegations contained in Paragraph #20 are denied. As documented previously, and in greater detail, attorney Vernon Russell requested the assistance of this attorney in the case to restore the competency of Mr. Hatley, a request that was approved by Order of Fred Biggers, Clerk of Superior Court at the time of the filing by Mr. Russell.
21. Admitted, upon information and belief.
22. The allegations contained in Paragraph #21 are denied. As documented previously, in greater detail, the appeal by Mr. Russell of the Clerk's Order took place within the statute of limitations allowed by the North Carolina General Statutes, filed by Mr. Russell in March of 2008. The case was not calendared by the Clerk of Superior Court at any setting of Cabarrus County Civil Superior Court for more than nine (9) months.
23. The allegations contained in Paragraph #23 are denied. As documented previously, in greater detail, Mr. Hatley expired before a trial on the merits ever began, but not before the Court ruled that the case was "more" than sufficiently able to move forward, despite the efforts of attorney Bill Rogers to discredit this attorney, his work, his experience, his work ethic, and his opinion by the filing of a Motion to Dismiss.
24. The allegations contained in Paragraph #24 are denied. As documented previously, in greater detail, the invoice for services rendered covered all work performed between March 1, 2008, the last date of work performed on the hearing before the Clerk of Court, and December 8, 2008, the last date of work performed on the jury trial before the Cabarrus County Civil Superior Court.

25. The allegations contained in Paragraph #25 are emphatically denied. As detailed previously, in greater detail, the allegations are completely without merit.
26. The allegations contained in Paragraph #26 are denied. As documented previously, in greater detail, Mr. Grant wanted Mr. Russell and this attorney to meet and "discuss" this case, not "settle" any claim with Gail Ervin and Sheila Furr, time for which neither Mr. Russell or this attorney would be paid.
27. The allegations contained in Paragraph #27 are emphatically denied. As detailed previously, in greater detail, this attorney contacted Mr. Grant by telephone and inquired about the purpose of a requested meeting. Mr. Grant refused to provide any information about what Gail Ervin and Sheila Furr wanted to discuss and attempted to persuade this attorney to attend a meeting with Gail Ervin and Sheila Furr, stating they were "clients" of this attorney and as such, this attorney was "obligated" to respond to any request made by Gail Ervin or Sheila Furr. Attorney Vernon Russell attended a meeting with Gail Ervin and Sheila Furr, at which time both berated and derogated Mr. Russell for his participation in the case, accused him of manipulating Mr. Hatley, and told Mr. Russell that he did not "deserve" to be paid by them for his time assisting Mr. Hatley with his legal matters.
28. The allegations contained in Paragraph #28 are denied. As documented previously, in greater detail, Fred Biggers, Clerk of Superior Court, had an election – related conflict related to this matter but refused to recuse himself from issuing orders that not only prejudiced this attorney but exceeded his authority as a judicial official by: 1) limiting this attorney's right to appeal; 2) limiting this attorney's right to file a civil claim against the Estate of Clevie Hatley, as required by the North Carolina General Statutes; 3) making a finding of fact about the solvency of Mr. Hatley, requiring the collection of attorney's fees by this attorney from Gail Ervin and Sheila Furr, then issuing an Order reserving for himself the exclusive right to set "any attorney fees," including those of Mr. Grant and Mr. Rogers; 4) refusing to remove Gail Ervin as Administrator of the Estate of Clevie Hatley after she refused to either pay or reject the claim for this attorney's fees, having paid all other claims of the Estate, as required by the North Carolina General Statutes; 5) delegating the assumed authority to set fees to Gail Ervin and Sheila Furr, after determining that the court itself was without authority to set fees; 6) declining judicial review of any fees invoiced to Gail Ervin and Sheila Furr by either Mr. Grant or Mr. Rogers; and 7) to limit the right of this attorney to seek judicial review from someone who was in a better position to evaluate the case after it was appealed from this Clerk's order. Once Mr. Biggers was confronted with his unethical behavior, he issued an order to have the fees of this attorney reviewed by Judge Cressie H. Thigpen, Jr., the Judge Presiding who actually presided over the appeal of Mr. Hatley. This attorney can only explain the contradiction in orders issued by Mr. Biggers as further evidence of why he no longer is serving in this elected capacity.
29. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #29 are denied.
30. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #30 are denied.
31. The allegations contained in Paragraph #31 are emphatically denied. As documented previously, and in greater detail, Gail Ervin, Sheila Furr, and Peggy Harwood provided sworn testimony to the court that they individually and collectively, as beneficiaries of

the Hatley estate, chose not to pay any claim of this attorney. At this same hearing, attorney Vernon Russell provided sworn testimony that Gail Ervin, Sheila Furr, and Peggy Harwood "did not want to pay (for his legal services or for those of this attorney on behalf of Mr. Hatley)." Mr. Rogers lied to the court, providing false information with regard to the rights of this attorney, in order to prevent the court from even considering this testimony at trial.

32. The allegations contained in Paragraph #32 are denied. No "extension, modification, or reversal of existing law" was required, merely the application of existing North Carolina case law and the North Carolina General Statutes.
33. The allegations contained in Paragraph #33 are denied. The Clerk's Order was created, after his verbal instructions were given, for the sole purpose to harass, intimidate, and embarrass this attorney, his political nemesis, for whom he refused to recuse himself, issuing orders to circumvent existing law and procedure.
34. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #34 are denied.
35. Admitted, upon information and belief.
36. The allegations contained in Paragraph #36 are denied. Motions to continue for lack of service on a party to a complaint are not discretionary. Constitutional protections prevent the deprivation of life, liberty, or property without notice and an opportunity to be heard. No "move" can (or should) be made by any party without sufficient notice to the opposing party. This attorney took the time and effort to apply those Constitutional protections to the opposing party and "moved" the court to continue the case for the opposing party because service had not been returned by the Sheriff of Cabarrus County, despite the fact that that counsel for the opposing party had the sufficient, required notice, and appeared in court on behalf of Gail Ervin, Sheila Furr, and Peggy Harwood on the scheduled date. This check the box calendar notice form, created and required by the court, simply asks if the case should be placed on the "Motions Calendar" or the "Trial Calendar." As review of the Court file, prior to the court date, revealed to this attorney that service on all parties had not been perfected, the logical, thoughtful, Constitutional decision was made to place the case on the "Motions Calendar" so that the case could be continued for the opposing parties at the appropriate time. In contrast, Mr. Grant "moved" the court to issue an Order for Chief District Court Judge William G. Hamby, Jr., and only Judge Hamby to preside over and issue orders relating to the case, having already made *ex parte* contact with Judge Hamby about the case. This "move" by Mr. Grant was not made a part of any calendar notice to this attorney or the court, nor was it made by advanced, written notice to this attorney, prior to the scheduled court date.
37. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #37 are denied.
38. The allegations contained in Paragraph #38 are emphatically denied. This attorney asked the court to inquire of Mr. Rogers as to whether he was making a limited appearance on behalf of Sheila Furr and Peggy Harwood or if he was making a general appearance, due to the fact that Mr. Rogers refused to respond to my inquiries regarding his availability as a witness. When forced to answer the court regarding the nature of his appearance, Mr. Rogers responded that he would not make himself available to testify by contracting with Sheila Furr and Peggy Harwood at all applicable times during the case. This attorney informed the court that it was obligated, under the North Carolina Rules of Professional

Conduct to report any violations by Mr. Rogers, should he be subpoenaed as a witness, and a transcript of Mr. Roger's response from this hearing may be submitted along with any such obligatory report of misconduct preventing any lawyer appearing as both counsel and a witness.

39. The allegations contained in Paragraph #39 are denied. This attorney does not create the laws, rules, and regulations under which he serves, with distinction, the poor, the disadvantaged, the hopeless, the troubled, the anxious, seeking relief from the burden of a variety of legal pressures, including criminal acts, traffic offenses, abuse, neglect, and dependency, child support establishment and contempt, juvenile delinquency, immigration, estate planning, incompetency, involuntary commitment, and other special proceedings. This attorney does not interpret or apply the laws, rules, and regulations under which he serves. It is the role of this attorney to know what the law is and argue the appropriate law to a given set of facts and circumstances.
40. The allegations contained in Paragraph #40 are denied. Any eyewitness to an event has the probative, relevant information required to establish the facts as evidence in a case. After the death of Mr. Hatley, the only remaining witnesses with a personal knowledge of his case were attorney Vernon Russell and attorney Bill Rogers. The fact that Mr. Rogers or any witness is unwilling to testify does not make their testimony any less valuable or any less of a necessity. If the court gave every witness the choice of whether or not to testify, no witness would ever take time away from work or any planned activity to appear in court as a witness.
41. The allegations contained in Paragraph #41 are denied. If cases are not calendared for hearing by the attorney who initiates their existence, they are dismissed by the court for failure to prosecute. Before any case can be prosecuted, whether it is civil or criminal, the Constitutional protections of service must be addressed. The issue of service had to be addressed at the September 28, 2009. The issue of service is routinely addressed at civil sessions of court, and so are issues of counsel, preparation of orders, and a litany of other administrative functions. These very important case details are discussed at regularly scheduled sessions of court so that every party, court personnel, and anyone with an interest in a case can stay informed, so that there is an official record of what is done and what is agreed upon, and so that everyone can agree on when it is best to appear again, set a deadline, or otherwise communicate. If Bill Rogers wanted to avoid the embarrassment of having to answer the court's questions, he should have had the professionalism to communicate with this attorney prior to the scheduled court appearance.
42. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #42 are denied. Mr. Grant also filed a Motion to Strike, N.C. Gen. Stat. § 1A – 1, Rule 12 (f), and a Motion for Change of Venue, N.C. Gen. Stat. § 7A – 258, motions that were not "asserted in the responsive pleading thereto," required pursuant to N.C. Gen. Stat. § 1A – 1, Rule 12.
43. The allegations contained in Paragraph #43 are denied. As documented previously, in greater detail, responsive pleadings that are not enumerated in N.C. Gen. Stat. § 1A – 1, Rule 12 (b) do not waive the required responsive pleading. By filing a Motion to Strike and a Motion to Change Venue, Mr. Grant did not alter the period of time to file and serve a responsive pleading, such motions required under this Rule to be filed within the responsive pleading. These motions by Mr. Grant can only be viewed as a responsive

pleading, and the failure by Mr. Grant to adequately respond to the allegations of the Complaint invite a Motion for Default on behalf of his clients.

44. The allegations contained in Paragraph #44 are denied.
45. The allegations contained in Paragraph #45 are denied. Mr. Grant was keenly aware that Mr. Biggers had an election – related conflict of interest and at no point should Mr. Biggers have intervened into the issues of this case. Mr. Grant and Mr. Rogers used the election – related prejudice to their strategic advantage, time and time again, using Mr. Biggers' orders, based neither in law or fact, to manipulate the various courts into dismissing claims and appeals, refusing to consent to another judge, including Cressie H. Thigpen, Jr., to hear and resolve the issues in the case, choosing instead to manipulate the advantage regularly gained from Mr. Biggers' disdain for his political competition represented in this attorney.
46. The allegations contained in Paragraph #46 are emphatically denied. This attorney was ordered by Fred Biggers, Clerk of Superior Court, on or about July 13, 2009, to resolve the pending issues of this case in favor of an Order by the Honorable Cressie H. Thigpen, Jr. This attorney was not aware of whether or not Mr. Biggers notified Mr. Grant of this Order, but this attorney telephoned Mr. Grant and detailed the instructions of Mr. Biggers. Mr. Grant responded, "I'll never allow that." Following Mr. Biggers' instructions, a Motion and Order were prepared for consideration by Judge Thigpen, before the civil claim was ever prosecuted.
47. The facts contained in Paragraph #47 are denied. As documented previously, in greater detail, this information was provided to Mr. Grant on or about July 13, 2009, before Mr. Rogers ever made an appearance in the case. This information was also provided to Mr. Grant and Mr. Rogers on or about October 14, 2009, after Mr. Rogers made an appearance in the case. It has been well – documented that Mr. Grant had numerous *ex parte* communications with Fred Biggers, Clerk of Superior Court. It is unlikely that Mr. Grant or Mr. Rogers were without any information, having gained every strategic advantage in their alliance with the political adversary of this attorney.
48. The facts contained in Paragraph #48 are emphatically denied.
49. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #49 are denied.
50. The allegations contained in Paragraph #50 are denied. As documented previously, in greater detail, this attorney retained the services of a local appellate attorney to prosecute the appeal to the North Carolina Court of Appeals. As was communicated to Mr. Grant when the January 25, 2010 court date was set, unresolved issues necessary to the appeal were anticipated and planned for by way of a court hearing. There is no question in the mind of this attorney that the case would have been reversed, pursuant to *In the Matter of Janet Clark*, COA08 – 1043, but the appeal was dismissed on January 6, 2010.
51. The allegations contained in Paragraph #51 are denied. As documented previously, in greater detail, Mr. Grant's letter to Karan Whitley, Trial Court Coordinator, dated December 31, 2009, appears to be a forum request by Mr. Grant to set a court date before the Honorable W. Erwin Spainhour and in no way, shape, form, nor by any stretch of the imagination set a hearing, nor did it set a hearing for January 25, 2010. Court cases are not scheduled by way of *ex parte* communications to Judge Spainhour's administrative assistant. Court cases are required to be scheduled pursuant to N.C. Gen. Stat. § 1A – 1, Rule 5, and the local rules of court.

52. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #52 are denied. As documented previously, this attorney received the January 5, 2010 post card from Karan Whitley, and on January 6, 2010 filed a voluntary dismissal with the court, properly serving notice of the dismissal on both Mr. Grant and Mr. Rogers. Mr. Grant approached Karan Whitley on or about January 14, 2010, *ex parte*, and had the case calendared without notice to this attorney as required in N.C. Gen. Stat. § 1A – 1, Rule 5, and the local rules of court.
53. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #53 are denied.
54. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #54 are denied. This attorney did not attend the January 25, 2010 hearing, because he did not have notice of such an event as required.
55. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #55 are denied. A hearing was conducted without any inquiry by the court into service on any affected parties and without presence of the affected party, making it an *ex parte* communication with the court.
56. The allegations contained in Paragraph #56 are emphatically denied. As documented previously, in greater detail, this attorney was in his office at all relevant times during which Mr. Grant claims to have "hand delivered" documents affecting his property, and at no time has Mr. Small ever seen Mr. Grant in his office, on this or any other occasion.
57. The allegations contained in Paragraph #57 are denied. As documented previously, in greater detail, current State Bar records, as maintained by the Office of the Secretary, list the appropriate mailing address for this attorney. At no time, past, present, or future, did this attorney receive mail from Mr. Grant at PO Box 1082, Concord, NC 28026. The building at which this attorney leased office space was not equipped with a receptacle for the receipt or deposit of mail, which is why this attorney maintained a post office mailbox.
58. Admitted, upon information and belief. Attorney Bill Rogers filed a Motion for Contempt and mailed a copy, along with a Notice of Hearing to this attorney's post office box, which he received on or about March 20, 2010. This was the very first time that this attorney ever became aware of any proceedings, orders, or motions which affected his life, liberty, or property.
59. The allegations contained in Paragraph #59 are emphatically denied. As documented previously, in greater detail, this attorney never stated to any court that he was aware of the January 25, 2010 court hearing. Mr. Grant reasoned to the court, on or about March 23, 2010 that this attorney "should know that the (January 6, 2010) dismissal didn't resolve all the issues."
60. The allegations contained in Paragraph #60 are emphatically denied. As documented previously, in greater detail, sworn testimony was provided to the court on or about March 25, 2010 by the part – time administrative of this attorney that no such notice was ever provided to this attorney. Conversely, neither Mr. Grant nor Mr. Rogers were able to provide a shred of evidence to support their suppositions that this attorney "should have known" about a hearing for which he never received notice.
61. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #61 are denied.

62. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #62 are denied.
63. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #63 are denied.
64. The allegations contained in Paragraph #64 are denied. This attorney maintained regular contact, both written and oral, with the Office of Counsel, including a response to the August 17, 2010 letter.
65. The allegations contained in Paragraph #65 are denied. This attorney maintained regular contact, both written and oral, with the Office of Counsel, including a response to the September 2, 2010 letter, at which time this attorney stated that he had just received the last of several requested court transcripts needed to document a response to the grievances, stated he was working on the response to the grievances, in the evenings and on the weekends while at home, that his kitchen table was littered with grievance – related documents, that he had more than thirty (30) pages of response prepared, that he was still completing the response to the grievances, and that he needed some additional time to respond, given the recent receipt of the transcript.
66. Having insufficient information to either admit or deny the allegations, the allegations contained in Paragraph #66 are denied. This attorney could not generate the detail and description he did, providing hundreds of pages of exhibits and evidence, in order to adequately respond to the grievance allegations, while maintaining a full – time litigation practice and fulfilling the duties and obligations of the courts, without the patience and the indulgence of those from whom this monumental request was made.

WHEREFORE Defendant prays of the Disciplinary Panel that this Complaint be dismissed, with prejudice, and for such further relief as the Panel may deem just and appropriate.

THIS the 22nd day of August, 2011.

Benjamin S. Small
Attorney for the Defendant
PO Box 1082
Concord, NC 28026
(704) 701 – 8338

CERTIFICATE OF SERVICE

The undersigned, being an attorney duly licensed to practice law in the State of North Carolina, does hereby certify that a copy of the foregoing ANSWER was duly served upon the following individuals on the 22ND day of August, 2011, as follows:

_____ By depositing a copy of the same by delivery to the appropriate mailbox at the Cabarrus County Courthouse, in accordance with Rule 18.3 of the Revised Local Rules for Superior Court.

xxx By depositing a copy of the same by personal, hand delivery to the following individuals:

Leanor Hodge
The North Carolina State Bar
PO Box 25908
Raleigh, NC 27611

THIS the 22nd day of August, 2011.

Benjamin S. Small
Attorney for the Defendant
PO Box 1082
Concord, NC 28026
(704) 701 – 8338